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BOOK REVIEWS.

HANDBOOK OF THE LAW OF PUBLIC CORPORATIONS. Henry H. Ingersoll, LL.D., Dean of the University of Tennessee School of Law. Minneapolis : West Publishing Co. 1904. pp. xvii, 738.

This book bears interesting testimony to the fact that the law has not yet become a sterile science, that it is ever developing. It was not so long ago that the treatment of public service corporations would have been confined to the texts on private corporations. But here we have a text which has attempted to co-ordinate private corporations which serve the public with the quasi corporation and municipal corporations. The work is divided into three parts, as follows : I. Quasi Corporations; II. Municipal Corporations; III. Quasi Public Corporations. Of the criticisms as to the propriety of the term "quasi public corporation" and of the prophecy by judges and others that it would not long survive, the author takes note, and yet, while endorsing the criticism, he adopts the term for want of a better substitute, maintaining that it has secured such recognition as to be regarded as a fixture in our legal nomenclature. He purposes to treat of such corporations only in so far as they serve the public. Evidently the fact that they do serve the public, and that fact alone, is reason enough in his mind for their consideration. Possibly some critics will disallow the adequacy of this reason. If so, it might be suggested that there still remains a defence for the inclusion, a defence that does not appear upon the surface, however. For it so happens that in treating of the quasi public corporation the author is drawn into an extended discussion of the public corporations proper. The relation of the quasi public corporation to the public corporation continually engages his attention. Hence, the critic may adopt the incident as the substance, and withdraw his criticism.

Much that is favorable may be said of the substance of the book. There are many statements of the law so clear and precise as to be almost models of their kind. Instances in point may be found in the discussion of existence by prescription, p. 117; of delegation of the power to create municipal corporations, p. 127; of the inhibition of creation by special laws, p. 141; and of the power of a municipal corporation to borrow money and execute negotiable paper, p. 314. The author is perhaps fortunate in his simple classification of the powers of municipal corporations as "governmental" and "municipal," p. 176. The emphasis that he has laid upon the consideration of boards and commissions as quasi corporations is commendable. The subject is too often passed over with little or no attention. The enumeration, among statutory town functions, of the power to "appropriate out of town revenues money for * * * the writing and publication of town histories," will be relished by any one who knows to what extent parts of New England have crowded the library shelves in the exercise of this "public function."

The author's distinctions are not always perfectly clear and consistently maintained. Perhaps the contradictions of the law are in a

measure responsible for this. Note the apparent inconsistency in the statements concerning voluntary incorporation of municipalities on pages 12, 24 and 112.

On page 116 we find a statement involving the relations of State and city which should be greatly modified. The writer says: "A city not governed by its own laws and ordinances in its domestic concerns is not a municipality, either by history or etymology. It must have powers or it cannot be a government—powers sufficient to authorize it to make its own laws and enforce them. It is an *imperium in imperio*—a favorite in our complex American system of checks and balances and home rule." Remembering the history of special legislation, and of close control of the cities by the State legislatures in the United States, about the last description that could be applied to the city would be the above. It is true that in a few States autonomy has been approached, but they are very exceptional. The author mentions the States of Missouri and California, p. 141. He might have added Colorado, Minnesota and Washington.

A word may be said concerning the form of the book. It follows the general plan of the Hornbook series, and therefore is adapted for easy reference, and rapid surveys. The citations are full, leading cases being printed in large type. The development of the work in general is painstaking and facile. Yet we may be somewhat surprised to find that statement of the essential qualities of quasi public corporations should be at the end rather than at the beginning of Part III. Objections to the diction and manner of expression in some places may be urged. The errors are probably in part typographical. Description of the process of creating a corporation as one of "concoction," page 12, is barbarous. There is a mystical reference to something called "municipal essence" on page 124, and on page 609 the private corporation is considered with respect to its "subjectivity to special legislative control."

Notwithstanding these objections, which, it should be observed, are for the most part of a minor character, the volume bids fair to be very serviceable.

WATER AND WATER RIGHTS. Three vols. Henry Philip Farnham. Rochester: The Lawyers' Cooperative Publishing Co. 1904. Vol. 1, clxxx. 1-896; vol. 2, xvi, 897-1893; vol. 3, xiv, 1894-2956.

It is not easy to characterize this impressive and somewhat oppressive work. To say that it is an excellent example of the encyclopedic type of law book is to recognize its usefulness to the profession and, at the same time, to put it out of the category of text-books for students. It hardly rises to the dignity of a treatise—it is too inclusive, too loosely woven, too tolerant of conflicting views to meet the requirements of a scientific presentation of the subject with which it deals—and yet it is too well-reasoned (in spots) and too original in treatment to be classed with the digests on special topics which too often masquerade as legal treatises. It is upon the whole a sound and intelligent as well as an honest piece of work, and it fills a real need of the profession. The treatises of Gould, Angell and Pomeroy, all excellent in their way and time, have reached the